**Applicant's Traversal**:

(1) Kojima does not anticipate the instantly claimed invention **because its U.S. filing date is November 29, 2001, while the U.S. filing date of the claimed invention is November 2, 2001**. The fact that Kojima has Japanese priority is of absolutely no value (please see *In re Hilmer*, 359 F.2d 859, 149 USPQ 480 (CCPA 1966) and MPEP 2136.03). The Hilmer doctrine is well-settled U.S. patent law that holds that priority can only be used as a shield (for the Applicant), but not a sword (for the reference).

Accordingly, it is respectfully requested that the rejection of claims 1, 12, 14 and 15 in view of Kojima must be withdrawn as it is in error.

(2) The 35 U.S.C.103(a) rejection of claims 2-10, 16 and 17 in view of the combination of Tracy and Kojima must also fall for the reasons indicated above, *supra.* The CCPA held in the case of *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (1974) that in order to establish a *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art.

As the instant application has a U.S. filing date that predates Kojima, the alleged teachings of Kojima cannot be considered to be prior art against the instant claims. Thus, the combination of references cannot render any of the instant claims obvious as the combination could not have existed until after the present application was filed.

Applicant respectfully requests that all grounds of rejection in the Final Office Action be withdrawn for all the claims as they are in error. It is respectfully requested that a *prima facie* case of unpatentability has not been set forth by the patent office, although it is the burden of the patent office to provide such a *prima facie* case or allow the claims.

For all the foregoing reasons, it is respectfully submitted that all the present claims are patentable. A Notice of Allowance is respectfully requested.

Respectfully submitted,

Dan Piotrowski
Registration No. 42,079

Date: April 4, 2003

By: Steve Cha
Attorney for Applicant
Registration No. 44,069

**Mail all correspondence to:**
Dan Piotrowski, Registration No. 42,079
US PHILIPS CORPORATION
580 White Plains Road
Tarrytown, NY 10591
Phone: (914) 333-9624
Fax: (914) 332-0615

**Certificate of Mailing Under 37 CFR 1.8**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to ASSISTANT COMMISSIONER FOR PATENTS, WASHINGTON, D.C. 20231 on April 4, 2003.

Steve Cha, Reg. No. 44,069
(Name of Registered Rep.)

(Signature and Date) 4/4/03